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Attorneys for Defendants Federal Insurance
Company, ACE American Insurance
Company, and Chubb Services Corporation

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

BOZEMAN DEACONESS HEALTH)
SERVICES, INTERCITY RADIOLOGY)
P.C., and DEACONESS INTERCITY)
IMAGING LLC dba ADVANCED)
MEDICAL IMAGING,)

Plaintiffs,)

vs.)

FEDERAL INSURANCE COMPANY,)
ACE AMERICAN INSURANCE)
COMPANY, and CHUBB SERVICES)
CORPORATION,)

Defendants.)
_____)

Cause No. _____

**NOTICE OF REMOVAL
UNDER 28 U.S.C. § 1441(b)
(DIVERSITY) CLERK'S
ACTION REQUIRED**

TO: THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MONTANA, MISSOULA DIVISION

Please take notice that Defendants Federal Insurance Company, ACE American Insurance Company, and Chubb Services Corporation (“Defendants”) hereby remove to this Court the state court action described below under 28 U.S.C. § 1441(b) on the grounds of diversity jurisdiction.

1. This Is a Notice of Removal Based on Diversity of Citizenship for an Action Pending in the Montana Fourth Judicial District Court, Missoula County.

Defendants are the defendants in a civil action filed in the Montana Fourth Judicial District, Missoula County, styled *Bozeman Deaconess Health Services, Intercity Radiology P.C. and Deaconess Intercity Imaging LLC dba Advanced Medical Imaging v. Federal Insurance Company, ACE American Insurance Company, and Chubb Services Corporation*, Cause No. DV-19-389 (the “State Court Action”). A copy of the Complaint and Jury Demand (“Complaint”) is attached as **Exhibit A**.

2. The First Defendant to be Served, Defendant Chubb Services Corporation, Received the Complaint and Summons on April 23, 2019.

Plaintiffs Bozeman Deaconess Health Service, Intercity Radiology P.C., and Deaconess Intercity Imaging LLC dba Advanced Medical Imaging (“Plaintiffs”) served Defendant Chubb Services Corporation (“Chubb”) with the Summons and Complaint by process server delivering the same to CT Corporation System,

Missoula, Montana.

The undersigned understands from Plaintiffs' counsel that Plaintiffs served the Commissioner of Insurance with the Summons and Complaint for Federal Insurance Company ("FIC") and ACE American Insurance Company ("ACE") after that date. FIC and ACE have not yet received service from the Insurance Commissioner.

Removal is thus timely with respect to all Defendants under 28 U.S.C. § 1446(b) because fewer than 30 days have passed since Chubb received the Summons and Complaint.

3. The State Court Action Concerns an Amount in Controversy in Excess of \$75,000.00, and Involves Plaintiffs and Defendants of Diverse Citizenship.

The State Court Action is a civil action over which this Court has original jurisdiction under 28 U.S.C. § 1332, and is one which may be removed to this Court by Defendants pursuant to 28 U.S.C. § 1441(b) because it is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

A. Defendants Have a Good Faith Basis to Believe that the Amount in Controversy Exceeds \$75,000.00, Exclusive of Interest and Costs.

In this action, Plaintiffs have brought claims for breach of contract, and for

violations of Montana's Unfair Trade Practices Act ("UTPA") and the Implied Covenant of Good Faith and Fair Dealing. Plaintiffs have alleged entitlement to special, general, compensatory, and punitive damages. Plaintiffs have also made a claim for attorney's fees. Further, Plaintiffs are apparently making a claim they are not required to pay the \$1,000,000.00 retention amount and that policy limits exceed \$1,000,000.00.

Based on the nature of the Complaint, Defendants' understanding of the damages claimed against Plaintiffs for which Plaintiffs seek coverage, and the damages asserted by Plaintiffs against Defendants in this action, Defendants have a good faith basis for their belief this case meets the amount in controversy requirement of 28 U.S.C. § 1332(a).

B. Plaintiffs are Citizens of Montana, Whereas Defendants are Citizens of Indiana, New Jersey, and Pennsylvania.

Defendants are informed and believe that Plaintiffs are citizens of Montana. See **Exhibit A**, State Court Action Complaint, ¶¶ 1, 2, and 3. FIC is incorporated in Indiana and its principal place of business is New Jersey. ACE is incorporated in Pennsylvania and its principal place of business is in the County of Philadelphia, Commonwealth of Pennsylvania. Chubb is incorporated in New Jersey and its principal place of business is Warren, New Jersey. Accordingly, Defendants qualify as citizens of Indiana, New Jersey, and Pennsylvania, for purposes of

diversity jurisdiction. Plaintiffs and Defendants in this case are therefore citizens of different states. No Defendant is a citizen of Montana. All diversity requirements for removal are met.

4. Defendants Will Notify the State Court of this Removal.

Pursuant to 28 U.S.C. § 446(d) and L.R. 3.3(a), within seven (7) days after filing its Notice of Removal with this Court, Defendants will promptly file a copy of its Notice of Removal in the State Court Action.

5. Venue in This Court Is Proper According to Plaintiffs' Complaint.

Removal to this Court, Missoula Division, is proper because the State Court Action was filed in this Court's district in the County of Missoula. See 28 U.S.C. § 1441(a); L.R. 1.2(c)(5).

Based on the foregoing, Defendants respectfully remove to this Court the State Court Action.

Respectfully submitted this 14th day of May, 2019.

BERG LILLY, PC

By /s/ Elizabeth W. Lund
ELIZABETH W. LUND
Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that, on the 14th day of May, 2019, a copy of the foregoing document was served on the following persons by the following means:

- 1 CM/ECF
- Hand Delivery
- Mail
- Overnight Delivery Service
- Fax
- 2, 3 E-Mail

- 1) Clerk, U.S. District Court
- 2) John L. Amsden, Esq.
BECK, AMSDEN & STALPES, PLLC
1946 Stadium Drive, Suite 1
Bozeman, MT 59715
- 3) Gary M. Zadick, Esq.
UGRIN ALEXANDER ZADICK, PC
#2 Railroad Square, Suite B
PO Box 1746
Great Falls, MT 59403

/s/ Elizabeth W. Lund
Elizabeth W. Lund